



Arizona Peace Officer Standards and Training Board

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MINUTES OF MEETING JANUARY 20, 2016 PHOENIX, ARIZONA

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on January 20, 2016, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

Mr. H. Jeffrey Coker, Chairman
Assistant Attorney General Paul Ahler, representing Attorney General Mark Brnovich
Sergeant Chris Andreacola, Tucson Police Department
Sergeant Leo Aparicio, Pinal County Sheriff's Office
Mr. David Brown, Public Member
Sheriff Mark Dannels, Cochise County Sheriff's Office
Chief Lawrence Hall, Buckeye Police Department
Sheriff Scott Mascher, Yavapai County Sheriff's Office
Colonel Frank Milstead, AZ Department of Public Safety (via telephone)
Chief Alan Rodbell, Scottsdale Police Department
Professor Cornel Stemley, Grand Canyon University

Board Members Absent:

Detention Director Mike Olson, Maricopa County Sheriff's Office
Director Charles Ryan, AZ Department of Corrections

Staff in Attendance:

Ted Brandon
Annie Deer
Mike Deltenre
Marie Dryer
Donna Gieber
Sandy Hansberger
Cathy Hawse
Lynn Howe
Steve Jacobs
Lori Ketron
Jack Lane
Lyle Mann
Sandy Sierra
Chester Szoltysik
Don Yennie

Assistant Attorneys General:

Michael Saltz
Seth Hargraves
Jennifer Perkins, Solicitor General's Office

A. Call to Order

Chairman Coker called the meeting to order at 10:00 a.m.

B. Introductions, Presentations and Announcements

Chief Alan Rodbell of the Scottsdale Police Department presented a certificate of appreciation to Donna Gieber, AZ POST contract employee from Scottsdale P.D. The certificate was from Command Presence Training Associates in appreciation for her assistance in approving a training course. Executive Director Lyle Mann introduced Assistant Attorney General Paul Ahler; he has been appointed to represent Attorney General Mark Brnovich on the Board, he replaces Mr. Donald Conrad.

C. Consent Agenda

Sheriff Mascher made a motion to approve the Consent Agenda, seconded by Chief Rodbell, motion carried unanimously.

1. Minutes of the Board meeting held on November 18, 2015, were approved as written.
Minutes of the Board meeting held on December 16, 2015, were approved as written.

2. Ministerial Actions:

a. Certification Waivers:

Joshua M. Shavers	AZ Department of Public Safety
Irasema H. Teran	Miami PD
Joshua J. Riley	Chandler PD
Zachary S. Waters	Chandler PD
Brenton L. Shipman	Apache Junction PD
Edward O. Valero	Phoenix PD
Colton T. Carnahan	Phoenix PD
Daniel G. Grant	Phoenix PD
Andrzej P. Kalinowski	Phoenix PD
Robert K. Olszewski	Phoenix PD
Raymond L. McNeely	Cochise County Sheriff's Office
Cecilia M. Strabala	AZ Department of Economic Security-OSI

b. Instructor Certification Renewals (list attached to agenda material)

c. Training Program Confirmations (list attached to agenda material)

3. Income and Expense Statement – December 2015

Funds as of July 1, 2015	\$1,151,412.06
CJEF Revenue (June-Nov, 2015)	3,030,830.87
Expenditures as of December 28, 2015	(3,032,991.71)
Balance for December 28, 2015	\$1,149,251.22

D. Executive Director’s Report

AZ POST Administrative Rules - The rule package is moving forward and the Governor’s Regulatory Review Council will meet on February 2, 2016, to vote on the proposed changes. Any changes discussed today will not have an impact on the rule package moving forward.

Budget - Revenues fail to meet expectation. He is still working with DPS on cadet housing and pursuing other housing arrangements.

E. Legislative Update

Executive Director Mann stated several bills have dropped since the legislature went in to session. There is nothing that impacts AZ POST in any of these bills.

F. Summary of Current Events

Executive Director Mann stated there is nothing new to report.

G. Review, Discussion and Possible Action on an appropriation funding request to support a Statewide Crisis Intervention Training Program, update/improvements at ALEA and SALETC, a Statewide Active Shooter Response Training Program and a Statewide De-Escalation of Force Training Program established around state of the art scenario simulators

As previously discussed at last month’s meeting, a plan is being proposed to ask the legislature for additional funding. The money will be used to: 1) 3.3 million to remodel/refurbish the two main academies which will include their driver tracks; 2) \$2.7 million to create a statewide Crisis Intervention Training Program; 3) 6.4 million to purchase 15 video based scenario simulators. Along with this funding request there is also a recommendation that a Board subcommittee be appointed by the Board chairman to assist with implementation of this proposal.

Colonel Milstead raised several questions regarding this request. Specifically, he inquired as to how these figures were calculated and whether or not committees were established in order to provide input on these requests. Several other Board members raised questions concerning this request. After a lengthy discussion it was determined to

go forward with this request and establish a subcommittee to oversee the implementation of the proposal that will be presented to the legislature. The subcommittee will consist of the DPS director, the two police chiefs and the two county sheriffs that sit on the Board.

Mr. Brown made a motion that the executive director be authorized to seek funding for the statewide comprehensive training program described and the legislative subcommittee be authorized to provide guidance in this matter, seconded by Sheriff Dannels, motion carried with one nay vote.

H. Review, Discussion and Possible Action on a Substantive Policy Statement concerning past use of Adderall and other similar drugs by applicants

The Board’s rules currently allow an agency head to petition the Board for a determination that past use of marijuana or a dangerous drug/narcotic was experimentation. The petition process was developed to allow agencies some discretion in its hiring decision for those applicants it believes would be a valuable addition to its organization despite failure to meet minimum qualification of the rules. The proposed Substantive Policy Statement would allow the same hiring discretion in cases where there is limited use of the drug Adderall.

A representative from the Pinal County Sheriff’s Office addressed the Board to request that it adopt this policy statement. Their agency has an applicant who had a one-time use of Adderall. This applicant is a very well rounded individual who would be an asset to their agency or any other agency. They would ask the Board to accept the policy statement so it falls under agency discretion and that this be placed under the prescription use category.

Mr. Brown made a motion that the Substantive Policy Statement as reflected in this discussion be adopted and published in accordance with the Arizona Administrative Procedures Act, seconded by Professor Stemley, motion carried unanimously.

I. Review, Discussion and Possible Action on the Proposed Administrative Rules, specifically R13-4-108 A.3.

A new proposed rule that is currently in the rule process would require agencies to report to the Board when an officer was convicted of or pleaded no contest to a misdemeanor or felony in any jurisdiction. The report shall be submitted within 10 days after the agency knows of the conviction or plea and include court documentation if available.

The following agencies were represented, addressed the Board and opposed this rule change. All felt this should be an issue that should be the agency head’s discretion:

Pima County Sheriff’s Department
Navajo County Sheriff’s Office
Maricopa County Sheriff’s Office
Phoenix Police Department

Graham County Sheriff’s Office
Apache County Sheriff’s Office

Mark Perkovich, from the Attorney General’s Office addressed the Board and was in favor of the rule change.

Executive Director Mann stated the reason this rule change was proposed was because of the DUI conviction unfairness. There is no consistency in the way agencies deal with DUI convictions.

Sheriff Mascher made a motion to pull this rule change from the new rules package that is currently in progress, seconded by Sheriff Dannels, motion carried with two nay votes.

J. Reports

1. Department of Corrections – No report given.
2. In-Service Training – Don Yennie reported on the In-Service Training classes which have been held since the last regular meeting. ALP Class #16 graduated on December 10, 2015. This brings the total number of ALP graduates to 1,283. 31 students are currently enrolled in ALP #17 which began January 11, 2016.
3. Special Projects/Digital Media – Marie Dryer reported that since the last regular meeting, the driver simulator has been utilized by five agencies, with 152 officers receiving this training. Blue Courage Training was held in December. She reported on regional training classes held since the last regular Board meeting. Currently the Digital Media Unit is working on an update to the Law Enforcement in Indian County DVD, hoping to have this released in March. They are also working with the FBI, the Pima County Sheriff’s Department and the Governor’s Office on the “Coming Storm” digital media training program to provide first responders best practices training in active shooter situations.

Executive Director Mann stated the active shooter training DVD was created in response to Sheriff’s Mascher’s question on what is being done on training officers for active shooter situations.

4. AZ Women’s Initiative – No report given.

K. Final Action Cases:

Case #1 – Shawn E. Osborn – Gila County Sheriff’s Office

(This case was taken out of order)

Assistant A.G. Ahler recused himself from this case. The Board considered comments from Assistant A.G. Seth Hargraves and Neil Landeen, attorney for Shawn Osborn. Professor Stemley made a motion to adopt the Administrative Law Judge’s Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Sheriff Mascher, motion carried unanimously.

Case #2 – Mario E. Bertuccelli – Phoenix Police Department

This case was tabled.

Case #3 – Clark D. Impastato – Phoenix Police Department

The Board considered comments from Assistant A.G. Michael Saltz. Chief Rodbell made a motion to adopt the Consent Agreement, Decision and Order for voluntary relinquishment of peace officer certification, seconded by Sergeant Andreacola, motion carried unanimously.

Case #4 – Michael W. McGuire – Tucson Police Department

Sergeant Andreacola recused himself from this case. The Board considered comments from Assistant A.G. Michael Saltz. Sheriff Dannels made a motion to adopt the Consent Agreement, Decision and Order for voluntary relinquishment of peace officer certification, seconded by Professor Stemley, motion carried unanimously.

Case #5 – Michael S. Mitchell – Sierra Vista Police Department

Chairman Coker and Sheriff Dannels recused themselves from this case. Chief Rodbell was acting chair. The Board considered comments from Assistant A.G. Michael Saltz. Chief Hall made a motion to adopt the Consent Agreement, Decision and Order for voluntary relinquishment of peace officer certification, seconded by Sergeant Aparicio, motion carried unanimously.

Case #6 – Ernest A. Wahlborg – Maricopa County Sheriff's Office

The Board considered comments from Assistant A.G. Michael Saltz. Chief Rodbell made a motion to adopt the Consent Agreement, Decision and Order and impose a one year suspension of peace officer certification from July 16, 2015, through July 16, 2016, seconded by Sergeant Aparicio, motion carried unanimously.

Case #7 – Cody M. Howard – Glendale Police Department

The Board considered comments from Compliance Manager Jack Lane. Sheriff Mascher made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification from January 20, 2016, through January 20, 2017, seconded by Professor Stemley, motion carried with one nay vote.

Case #8 – Leonard Jimenez Jr. – Maricopa County Community College District

The Board considered comments from Compliance Manager Jack Lane and Leonard Jimenez Jr. Professor Stemley made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Professor Stemley left the meeting and Colonel Milstead hung up the phone at this time.

Case #9 – Matthew S. Mitchell – Prescott Valley Police Department

Sheriff Mascher recused himself from this case. The Board considered comments from Compliance Manager Jack Lane. Chief Rodbell made a motion to adopt the Findings of Fact and Conclusions of Law and deny peace officer certification, seconded by Chief Hall, motion carried unanimously.

Case #10 – Cisco J. Perez – Maricopa County Sheriff's Office

The Board considered comments from Compliance Manager Jack Lane. Sheriff Dannels made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Case #11 – Michael D. Myers – Pinal County Sheriff's Office

Sergeant Aparicio recused himself from this case. The Board considered comments from Compliance Manager Jack Lane. Chief Rodbell made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Hall, motion carried unanimously.

Case #12 – Timothy L. Arndt – Phoenix Police Department

The Board considered comments from Compliance Manager Jack Lane. Sheriff Dannels made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Rodbell, motion carried unanimously.

Case #13 – Michael B. Cadriel – Cocopah Tribal Police Department

The Board considered comments from Compliance Manager Jack Lane. Chief Rodbell made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Sergeant Aparicio, motion carried unanimously.

Case #14 – Gena L. Founds – Tolleson Police Department

The Board considered comments from Compliance Manager Jack Lane. Chief Rodbell made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Hall, motion carried unanimously.

Case #15 – Jesse J. Dean – Mohave County Sheriff's Office

The Board considered comments from Compliance Manager Jack Lane. Sheriff Mascher made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Mr. Brown, motion carried unanimously.

L. New Charging Cases:Case #1 – Ryan D. Thibault – Gilbert Police Department

The Board considered comments from Compliance Specialist Ted Brandon. Mr. Brown made a motion to close this case with ***No Action with Agency Discretion***, seconded by Sheriff Mascher, motion fails. Sergeant Aparicio made a motion to ***Initiate Proceedings***, seconded by Chief Rodbell, motion carried with 3 nay votes.

Case #2 – Octavio Gradillas Jr. – AZ Attorney General’s Office

Assistant A.G. Ahler and Sheriff Dannels recused themselves from this case. The Board considered comments from Compliance Specialist Mike Deltenre. Sergeant Aparicio made a motion to close this case with **No Action**, seconded by Chief Rodbell, motion carried unanimously.

Case #3 – Cristobal M. Velasco – Santa Cruz County Sheriff’s Office

The Board considered comments from Compliance Specialist Cathy Hawse. Mr. Brown made a motion to **Initiate Proceedings**, seconded by Sergeant Andreacola, motion carried unanimously.

Case #4 – Ron A. Ciancimino – Yuma Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Sergeant Aparicio made a motion to **Initiate Proceedings**, seconded by Chief Rodbell, motion carried unanimously.

Case #5 – Gregory E. David – Mohave County Sheriff’s Office

The Board considered comments from Compliance Specialist Steve Jacobs. Chief Rodbell made a motion to **Initiate Proceedings**, seconded by Sheriff Dannels, motion carried unanimously.

Case #6 – Cain Flores – San Luis Police Department

The Board considered comments from Compliance Specialist Steve Jacobs. Assistant A.G. Ahler made a motion to **Initiate Proceedings**, seconded by Sheriff Mascher, motion carried unanimously.

Case #7 – James M. McKnight – Buckeye Police Department

Chief Hall recused himself from this case. The Board considered comments from Compliance Specialist Steve Jacobs. Mr. Brown made a motion to **Initiate Proceedings**, seconded by Sergeant Aparicio, motion carried unanimously.

Case #8 – Myke C. Steighler – Mohave County Sheriff’s Office

The Board considered comments from Compliance Specialist Steve Jacobs. Sergeant Aparicio made a motion to **Initiate Proceedings**, seconded by Chief Rodbell, motion carried unanimously.

Case #9 – John L. McClendon Jr. – Pima County Sheriff’s Department

The Board considered comments from Compliance Specialist Lori Ketron. Sheriff Dannels made a motion to **Initiate Proceedings**, seconded by Sergeant Aparicio, motion carried unanimously.

Case #10 – Roxana L. Meicke – Mesa Police Department

The Board considered comments from Compliance Specialist Lori Ketron. Chief Rodbell made a motion to **Initiate Proceedings**, seconded by Sergeant Aparicio, motion carried unanimously.

Case #11 – John D. Powell – Mesa Police Department

The Board considered comments from Compliance Specialist Lori Ketron. Sheriff Mascher made a motion to ***Initiate Proceedings***, seconded by Chief Rodbell, motion carried unanimously.

Case #12 – Evan M. Walker – Cochise County Sheriff's Office

Sheriff Dannels recused himself from this case. The Board considered comments from Compliance Specialist Lori Ketron. Chief Rodbell made a motion to ***Initiate Proceedings***, seconded by Mr. Brown, motion carried unanimously.

M. Call to the Public

No one wished to address the Board during the call to the public.

N. Future Agenda Items

Sheriff Mascher requested an itemized breakdown of the costs associated with the funding request to the legislature. He would like this information provided to the Legislative Subcommittee as soon as possible.

Chief Rodbell stated the reason he voted against the proposed rule change (R13-4-108.A.3) was because specifically it looks like they are looking at DUIs. He feels the Board needs to bring the DUI conversation to a head and deal with it; he feels this needs to be a future agenda item. He also stated Director Milstead mentioned changes in style in the way the academies are operating; he has heard rumors of this. He would like to have a conversation about this when appropriate to allow for the Board's input.

O. Adjourn

Chairman Coker adjourned the meeting at 1:00 p.m.